

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 59 OF 1996

Smt. Krishna Menghomal Mirchandani .. Petitioner

V/s

State of Maharashtra & Ors. .. Respondents

Mr.S.L. Kanuga for the Petitioner.

Mrs.M.P. Thakur, A.G.P. for Respondents No.1 and 2.

Mr.R.M. Sawant for Respondent No.3.

Mr.V.N. Tayade for Respondents No.4 and 8.

Respondents No.5 to 7 are served.

CORAM : H.L. GOKHALE & J.H. BHATIA, JJ.

DATE : 17TH JULY 2006

P.C. :

1. Heard the counsel for the parties.
2. The Petitioner herein has filed this petition making a grievance against Respondents No.4 and 8 that they have made an unauthorised construction on Block No.1574/1, Section 27, Ulhasnagar. The petition prays that a mandamus be issued to direct Respondents No.1 to 3 to demolish this building. This petition was admitted on 12th April 1996, but prior thereto on 11th January 1996 an interim order was passed in terms of prayer (e) pending admission thereof. On admission, interim order

was granted in terms of prayer (c) also. At the time when these orders were passed, the building was under construction and was certainly not occupied. It remained as such thereafter till date.

3. Mr.Tayade for Respondents No.4 and 8 has filed today an affidavit containing an undertaking of Respondent No.4. This is over and above an undertaking which was filed earlier on 5th May 2006. In the undertaking filed on 5th May 1996, Respondent No.4 has undertaken to the Court that he will demolish the structure concerned erected on that plot of land. The undertaking filed today makes it further clear that nobody is residing in the said premises and that no third party interests are created therein. It further states that Respondent No.4 will bear the expenses for demolition and demolish the structure within 2 months from the date of this order. It is further undertaken that in the even the structure is not demolished within 2 months, it would be open to the Corporation to demolish the same.

4. In view of these two undertakings given by Respondent No.4, nothing survives in the petition. The purpose for which the petition is filed is fully satisfied. We expect the Respondent No.4 to act in accordance with both these undertakings which are hereby

accepted.

5. Mr.Sawant for Respondent No.3 Municipal Corporation states that while constructing the building, Respondent No.4 has encroached on some 35 sq.yards of government land. Mr.Tayade for Respondents No.4 and 8 very much denies this allegation. We are not going into this issue inasmuch as Respondent No.4 has undertaken to demolish the structure. In the event, there is any such encroachment, it would be for the Government to take appropriate steps.

6. Petition stands disposed of. There will be no order as to costs.

(H.L. GOKHALE, J.)

(J.H. BHATIA, J.)